



#9/11/03  
05-01-02

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT  
Attorney Docket No.: 02307Z-090130US  
Client Ref. No.: 99-013-2

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On April 24, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: Joy Marshall

RECEIVED  
MAY 01 2003  
TECH CENTER 1600/2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

PHILLIPS *ET AL.*

Application No.: 09/831,958

Filed: October 15, 2001

For: NOVEL ENHANCERS OF PLANT GROWTH

Examiner: L.B. Lankford Jr.

Art Unit: 1651

RESPONSE TO RESTRICTION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office communication mailed March 25, 2003, Applicants elect Group I with traverse. Group I (claims 1-20) is directed to methods for increasing plant growth.

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. *See*, the MPEP at 803.01. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. Applicants respectfully submit that examination of the claims in Groups I-VI would not create an undue burden and respectfully request withdrawal of the restriction requirement in this case.

PHILLIPS *ET AL.*

Application No.: 09/831,958

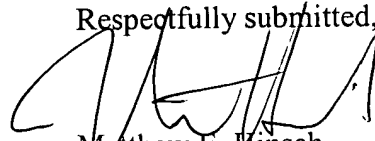
Page 2

PATENT

In particular, Applicants request that the Examiner reconsider the restriction of Groups II (claims 21-22) and III (claims 23-30) from Group I. Groups II and III are directed to methods of increasing plant growth in hydroponic or controlled solid growth media, respectively. These groups are encompassed by the scope of claim 1 in Group I. Therefore, a search of claim 1 should identify art relevant to Groups II and III. Accordingly, Applicants respectfully request that the Examiner examine Groups I-III together.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-273-7554.

Respectfully submitted,



Matthew E. Minsch  
Reg. No. 47,651

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: (415) 576-0300  
MEH:meh  
SF 1454041 v1